

E-FILED 11-01-2011

NOT FOR CITATION

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

11 INNOVATIVE AUTOMATION, LLC,

No. C11-03410 HRL

12 Plaintiff,

**ORDER (1) GRANTING PLAINTIFF'S
MOTION FOR LEAVE TO FILE FIRST
AMENDED COMPLAINT; AND (2)
DENYING AS MOOT PLAINTIFF'S
MOTION TO STRIKE**13 v.
14 MEDIATECHNICS SYSTEMS, INC.; TIBI
SZILAGYA; and COPTECH DIGITAL, INC.,

15 Defendants.

[Re: Docket No. 14]

16
17 Plaintiff Innovative Automation, LLC (Innovative Automation) sues for alleged
18 infringement of United States Patent No. 7,174,362. According to plaintiff, the patent-in-suit
19 describes and claims a computer-implemented method of digital data duplication.

20 Now before the court is Innovative Automation's motion for leave to file a first amended
21 complaint adding several new defendants.¹ The court has received no opposition to the motion.
22 Upon consideration of the moving papers, as well as the discussion held at the hearing,
23 plaintiff's motion to amend is granted.

24 Rule 15(a) of the Federal Rules of Civil Procedure governs motions for leave to amend
25 and provides that "[t]he court should freely give leave when justice so requires." FED. R. CIV.
26 P. 15(a)(2). The decision whether to grant leave to amend under Rule 15(a) is committed to the
27

28 ¹ At the motion hearing, plaintiff (1) advised that it has reached a settlement
with defendant Coptech Digital, Inc. and (2) withdrew its motion to strike the "Answer to
Complaint" filed by Coptech's President, Thomas E. Cherry. Plaintiff's motion to strike
therefore is denied as moot.

United States District Court

For the Northern District of California

1 sound discretion of the trial court. See Waits v. Weller, 653 F.2d 1288, 1290 (9th Cir. 1981).
2 Leave need not be granted, however, where the amendment would cause the opposing party
3 undue prejudice, is sought in bad faith, constitutes an exercise in futility, or creates undue delay.
4 Foman v. Davis, 371 U.S. 178, 182 (1962). “Absent prejudice, or a strong showing of any of
5 the remaining *Foman* factors, there exists a presumption under Rule 15(a) in favor of granting
6 leave to amend.” Eminence Capital LLC v. Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003).

7 Here, plaintiff seeks to add three new defendants: Richard Wilson, Vinpower, Inc., and
8 Vinpower Digital, Inc. Innovative Automation believes that Wilson is at least partially
9 responsible for the sale of the accused devices of defendant Mediatechnics Systems, Inc.
10 (Mediatechnics). Vinpower, Inc., and Vinpower Digital, Inc. allegedly manufacture the same
11 accused Mediatechnics machines. Based on representations that these three proposed
12 defendants make, offer to sell, and sell the same accused product, see 35 U.S.C. § 299, and
13 given the relatively early stage of this litigation, the court concludes that the requested
14 amendment should be permitted. Plaintiff shall promptly file its proposed First Amended
15 Complaint as a separate docket entry.

16 SO ORDERED.

17 Dated: November 1, 2011



18
19 HOWARD R. LLOYD
20 UNITED STATES MAGISTRATE JUDGE
21
22
23
24
25
26
27
28

United States District Court

For the Northern District of California

1 5:11-cv-03410-HRL Notice has been electronically mailed to:
2 Adam Gutride adam@gutridesafier.com
3 Seth Adam Safier seth@gutridesafier.com
4 Todd Michael Kennedy todd@gutridesafier.com
5 Victoria L.H. Booke vbooke@gmail.com, peter@bookelaw.com

6 Counsel are responsible for distributing copies of this document to co-counsel who have not
7 registered for e-filing under the court's CM/ECF program.

8 5:11-cv-03410-HRL Notice sent by U.S. Mail to:

9 Thomas E. Cherry, President
10 Coptech Digital, Inc.
100 Cummings Park
11 Woburn, MA 01801
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28